

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* D. CAMPAU, Minor.

UNPUBLISHED

May 19, 2015

No. 324379

Bay Circuit Court

Family Division

LC No. 13-011366-NA

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Before: BOONSTRA, P.J., and SAAD and MURRAY, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(a)(ii) (desertion), MCL 712A.19b(3)(c)(i) (failure to rectify conditions), and MCL 712A.19b(3)(g) (failure to provide proper care and custody). We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

According to the initial petition in this matter, at 11:28 a.m. on March 13, 2013, the child was found walking alone down a road in Bay City. He was four years old at that time, and when someone stopped to see whether he was lost, he stated that "he was cold and asked them to give him a ride to his grandma's hotel." He explained "that he was at a stranger's house and no one was there, so he left." The Bay County Department of Human Services (DHS) went to the home where it was reported respondent was staying and found her sleeping. She was not aware that the child had left the home and indicated that she was staying at a friend's house because she was homeless.

Respondent admitted or pleaded no contest to all of the allegations in the petition on May 9, 2013. The child was placed into foster care, and respondent was provided supervised parenting time. Between that date and the date of the termination hearing, October 10, 2014, five review hearings were held. During that time period, as the trial court indicated, respondent participated in services and parenting time "somewhat." To respondent's credit, she was described as "doing very well," had attended most parenting time sessions, drug screens, and other services, had "passed her final with excellent scores" in her parenting class, had begun part-time employment, and had made at least some effort to find a home for herself and the child. However, as of the April 21, 2014 review hearing, respondent still had not obtained adequate housing and only had two hours of parenting time with the child per week. The trial court recognized "a lack of energy and a lack of urgency on the part of [respondent] in as far as what

she needs to do” and could not “see [how] we’re gonna be able to get this child home within the next two months.” Consequently, the trial court authorized petitioner to file a termination petition.

A final review hearing was held on July 21, 2014. Respondent did not attend. Both the foster-care worker and respondent’s attorney indicated that they had had little to no contact with respondent, that she was discharged from case management services due to “lack of participation,” was fired from her part-time employment, and was now living in a home with her father, a registered sex offender, that had holes in the walls, plumbing issues, and a caved-in bedroom. The foster-care worker explained that she was not able to contact respondent by phone and, when she attempted a home visit at respondent’s home, she saw respondent stick her head out of the door but never received an answer after several knocks.

The termination hearing was held on October 10, 2014, and respondent was again not present. The foster-care worker went through the case history and testified that since July 2014, respondent had “completely dropped off the grid.” She testified that she believed it was in the child’s best interests to terminate respondent’s parental rights because “[s]he has not alleviated anything that . . . had brought [the child] into care in the first place,” and explained that “the same thing would happen if [the child] does get returned home, and he would have an unstable home and an unstable life.”

The trial court concluded that the previously mentioned statutory grounds for termination had been established and that terminating respondent’s parental rights was in the child’s best interests. The court opined that although “[t]here is a relationship between [the child] and [respondent] that is being disrupted . . . that’s on her really, with her failure . . . to attend to him or pay attention to him.” The trial court explained, “as far as the underlying issues which impede her ability to take care of the child, those have not been addressed, and it’s been well over 182 days since those services have been offered to her, and she’s failed to participate or complete them.” Accordingly, respondent’s parental rights were terminated.

## II. ANALYSIS

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds set forth in MCL 712A.19b(3) has been established by clear and convincing evidence, *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000), and that termination is in the child’s best interests, *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). “[I]t is well established that the petitioner for the termination of parental rights bears the burden of proving at least one ground for termination.” *Trejo*, 462 Mich at 350. Only one statutory ground need be proven. *Id.* We review a trial court’s order terminating parental rights for clear error. MCR 3.977(K); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). “A finding is ‘clearly erroneous’ when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made.” *In re Riffe*, 147 Mich App 658, 671; 382 NW2d 842 (1985). “To be clearly erroneous, a decision must be more than maybe or probably wrong.” *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011).

### A. STATUTORY GROUNDS

The trial court terminated respondent's parental rights under MCL 712A.19b(3)(a)(ii), (c)(i), and (g), which provide as follows:

The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

(a) The child has been deserted under either of the following circumstances:

\* \* \*

(ii) The child's parent has deserted the child for 91 or more days and has not sought custody of the child during that period.

\* \* \*

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

\* \* \*

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

After reviewing the record, we conclude that the trial court did not clearly err in concluding that at least one statutory ground existed. The evidence presented during the termination hearing indicated that, although respondent had participated in services and parenting time and had, at times, made some progress, she still struggled with substance abuse and had not obtained adequate housing. Therefore, "the conditions that brought the child[] into foster care continue[d] to exist despite 'time to make changes and the opportunity to take advantage of a variety of services . . . .'" *In re White*, 303 Mich App 701, 710; 846 NW2d 61 (2014) (alterations added, ellipsis in original), quoting *In re Powers Minors*, 244 Mich App 111, 119; 624 NW2d 472 (2000). Further, without being able to properly care and, at a bare minimum, provide adequate housing for the child, respondent "fail[ed] to provide proper care and custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age." MCL 712A.19b(3)(g). Indeed, minimal progress in services coupled with an inability to obtain and maintain suitable housing is sufficient to satisfy the statutory grounds under MCL 712A.19b(3)(c)(i) and (g). *In re Trejo*, 462 Mich at 362-363. Because we conclude that the trial

court did not clearly err in finding that MCL 712A.19b(3)(c)(i) and (g) were proved by clear and convincing evidence, we need not address MCL 712A.19b(3)(a)(ii). *Id.* at 350.

## B. BEST INTERESTS

Once a statutory ground has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights. MCL 712A.19b(5); MCR 3.977. Whether terminating parental rights is in the best interests of the child must be proved by a preponderance of the evidence. *In re Moss*, 301 Mich App at 90. All available evidence on a wide variety of factors should be considered. *In re White*, 303 Mich App at 713. These factors include the existence of a bond between the child and the parent, the parent's ability to parent, the child's need for permanency and stability, the advantages of a foster home over the parent's home, the parent's compliance with his or her service plan, the parent's visitation history with the child, the children's well-being, and the possibility of adoption. *Id.* at 713-714.

We also hold that the trial court did not clearly err in concluding that terminating respondent's parental rights was in the child's best interests. The evidence established that the child did well in two foster homes, improved significantly in school, had been diagnosed with and began taking medication for ADHD, was young enough to be adopted, and had a positive relationship with his new foster parents. As the trial court found, although there may be continuing struggles, providing permanency to the child's day-to-day life can only serve to help in meeting those challenges.

And, as the trial court also found, the record shows that respondent was not able or ready to provide this security and permanence as of termination. She had not addressed or rectified the issues that led to adjudication. Throughout this case, respondent has failed drug tests, missed parenting time, services, and court hearings, not acquired stable housing or employment, had been incarcerated, and, since July 2014, "completely dropped off the grid." Although there was evidence of a bond between respondent and the child, given the totality of the circumstances, the trial court did not clearly err in concluding that it was in the child's best interests to terminate respondent's parental rights.

Affirmed.

/s/ Mark T. Boonstra  
/s/ Henry William Saad  
/s/ Christopher M. Murray